

Northwest Family Recovery Program

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Andy Hudak, Director

Montana Sex Offender Treatment Association - Areas of Interest

– Presented by; Andy Hudak; Cofounder/Vice President/Legislative Chair

– Brief Introduction

– The Addition of Conditions By the Parole Board

- Sexual Offenses Pled down (research demonstrates that it is increasingly more likely)
- Specific Examples (even when SOP II is complete)
- I would take individualized approach to standards committee that is risk driven
- Any treatment task not directly related to risk can be the result of a collaborative decision, and in control of the client.

– The Latest Research on Sex Offender Recidivism

(Karl Hanson; Andrew Harris' "redemption curve" which demonstrates at what point each level of risk sex offender becomes equal to, or less risky to do a sexual crime than a probationer that was never charged for any sexual offense.)

– Positive and Negative Impacts of the Registry On Adolescents

(and Tier I adults) (Caldwell & Letourneau research) to adolescent sex offenders, with a proposal that would fix much of it.

- The Current Problem (summary of the risk and registry negative impact research on adolescents/young adults)
- One Solution (return to pre-Adam Walsh Act – original Montana grown method)
- Summary of research will be provided after the meeting.

– Request for Support in Additional Education re Recidivism

- Impact on Sentencing
- Can be done through the registry, thus minimizing unnecessarily frightening the public, while directing their attention to real threats.

– Statutory Rape Amendment to the Montana Code.

– Request for Feedback, Further Information, etc.

Law and Justice meeting
June 27, 2014

Exhibit 25

Weiss, Rachel

From: Andy Hudak <andyhudak@montanasky.net>
Sent: Friday, June 27, 2014 1:10 AM
To: Weiss, Rachel
Subject: FW: Montana Code for SIWOC and addition statutory rape

Hi Rachel-

In response to your question about when to hand them out, during my testimony would be fine. (I have a meeting at DOC at 3:30 PM, but will return for the public comment at 4:15 PM)

I'd greatly appreciate it if you could also copy and paste the stuff below – starting with "**45-5-503. Sexual intercourse without consent.**" (**All of it through to the last line**), as that would probably be helpful for the committee members.

Thanks again

Andy Hudak

406-261-4840 (I'll be arriving at the meeting midmorning, and check in with you at a break)

PS: in the alternative, IF the margins are a hassle for any reason, the part that is the most crucial for the committee to have (since I'm sure they all have the Montana code) is from the point where there it says; " *Recommended Additions: ..." (Through the bottom line)

Montana Code Annotated 2011

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45-5-503. Sexual intercourse without consent. (1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(a)(ii)(D).

(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219, 46-18-222, and subsections (3) and (4) of this section.

(3) (a) If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be

punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.

(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury upon a person in the course of committing each offense, the offender shall be:

- (i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or
- (ii) punished as provided in 46-18-219.

(4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

- (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

- (ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as

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ded for in 46-18-244.

(6) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or flight after the attempt or commission.

History: En. 94-5-503 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 2, L. 1975; amd. Sec. 1, Ch. 129, L. 1975; amd. Sec. 1, Ch. 94, L. 1977; amd. Sec. 16, Ch. 359, L. 1977; amd. Sec. 10, Ch. 584, L. 1977; R.C.M. 1947, 94-5-503; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 172, L. 1985; amd. Sec. 1, Ch. 356, L. 1985; amd. Sec. 1, Ch. 644, L. 1985; amd. Sec. 1, Ch. 175, L. 1991; amd. Sec. 2, Ch. 218, L. 1991; amd. Sec. 3, Ch. 687, L. 1991; amd. Sec. 1, Ch. 85, L. 1993; amd. Sec. 8, Ch. 482, L. 1995; amd. Sec. 2, Ch. 550, L. 1995; amd. Sec. 1, Ch. 312, L. 1997; amd. Sec. 3, Ch. 84, L. 1999; amd. Sec. 4, Ch. 523, L. 1999; amd. Sec. 85, Ch. 114, L. 2003; amd. Sec. 3, Ch. 335, L. 2007; amd. Sec. 5, Ch. 483, L. 2007.

Provided by Montana Legislative Services

*** Recommended Additions:**

(5) If the victim's lack of consent is almost exclusively due to age, and there was no behavioral violence in the act, and If the victim is 14 years or older, and the offender is 25 years old or younger, the offender shall be punished by imprisonment in the state prison for a term not more than 5 years or fined an amount not to exceed \$50,000 or both.

(6) IF the offender is an adolescent, age 17 or younger, and the victim's age is greater than 12, the punishment and fine options (5) *could* also apply if the victim's lack of consent was exclusively due to age.